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In re Application of:	:	
TSATSANIS, Michail, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/517,094	:	37 CFR 1.47(a)
PCT No.: PCT/US2003/018129	:	
International Filing Date: 06 June 2003	:	
Priority Date: 07 June 2002	:	
Attorney's Docket No.: VOY-024US	:	
For: METHOD AND SYSTEM FOR	:	
PROVIDING A TIME EQUALIZER	:	
FOR MULTILINE TRANSMISSION	:	
IN COMMUNICATIONS SYSTEMS	:	

This decision is issued in response to applicants' "Petition To Accept Declaration Of Non-Signing Inventor 37 CFR 1.47(a)" filed 30 May 2006. Applicants have paid the required petition fee.

BACKGROUND

On 06 June 2003, applicants filed international application PCT/US2003/018129. The international application claimed a priority date of 07 June 2002, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 07 December 2004.

On 06 December 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 27 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date was required.

On 30 May 2006, applicants filed the "Petition To Accept Declaration Of Non-Signing Inventor 37 CFR 1.47(a)" considered herein, accompanied by payment of the required surcharge and a partially executed declaration. The petition seeks acceptance of the application without the signature of inventor Michail TSATANIS, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have submitted the required petition fee, and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by the two cooperating inventors and containing an unsigned signature block for the non-signing inventor. However, the declaration does not include all the information required under 37 CFR 1.497(a); specifically, the declaration does not include the citizenship of the non-signing inventor. Because the declaration filed herein does not include all required information, item (3) is not satisfied.

Regarding item (4), MPEP section 409.03(d) states that “[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.” The MPEP also states the following:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants provided a statement from attorney Joseph R. Jordan, with supporting documents, providing firsthand evidence that a request for signature, with a copy of the complete application, was forwarded to the last known address of the non-signing inventor via Certified Mail (the mailing was returned as “unclaimed”), then mailed to the same address, and that no response was received from the non-signing inventor. However, applicants have not provided any evidence to confirm that the address being used is the current address of the non-signing inventor, as required before the inventor’s failure to respond to a mailing at such address can be considered a refusal to sign the application.

Applicants must provide additional evidence to confirm the inventor's constructive refusal to sign (i.e., evidence confirming that the request for signature and application papers has been delivered to the inventor at his current address). If this cannot be confirmed, applicants must provide evidence that a diligent effort to identify a current address for the inventor and contact him at such address has been made (i.e., internet searches, etc.). Until such supplemental materials are provided, item (4) is not considered satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy items (3) and (4) of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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